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O.A.No.509 of 2022
& A.No.3494 of 2022
in C.S.No.172 of 2022

<i>Reserved on</i>	<i>20.03.2023</i>
<i>Delivered on</i>	<i>16.06.2023</i>

K.KUMARESH BABU, J.

These applications have been filed by the applicant seeking for various reliefs as follows:

(i)O.A.No.509 of 2022 has been filed to grant an order of ad interim injunction restraining the respondent from in any way marking, printing, publishing, broadcasting, disseminating or circulating the statements, articles, pictures, cartoons, caricatures, sketches, tweets and videos mentioned in the schedule herein or its contents or any other defamatory statements, articles, pictures, cartoons, caricatures, sketches, tweets or videos which causes damage or



tends to lower the reputation of the applicant on YouTube, Twitter, Facebook or in any other media or in any other manner pending disposal of the above suit.

(ii) A.No.3494 of 2022 has been filed to pass an order of ad interim direction directing the respondent to remove all the defamatory videos and tweets mentioned in the schedule herein, which are published online from YouTube, Twitter, Facebook and all other media pending disposal of the above suit.

2. Heard Mr.P.Wilson, learned Senior Counsel appearing for Mr.Richardson Wilson, learned counsel for the applicant and Mr.Karthick Seshadri, learned counsel appearing for Ms.Elizabeth Seshadri, learned counsel for the respondent.

3. Mr.P.Wilson, learned Senior Counsel would submit that the applicant is a Member of Legislative Assembly, Tamil Nadu and serving as Minister for Electricity, Prohibition & Excise. The case of the applicant is that due to personal malice, animosity and political motives, the respondent is running a campaign



against the applicant since 2021. As part of the campaign, the respondent habitually uploads tweets and gives interviews to online media platforms making defamatory, scandalous, allegations against the applicant. The respondent was a ministerial staff in the Department of Vigilance and Anti-corruption, Government of Tamil Nadu and a self-styled journalist. Claiming himself to be a journalist, the respondent habitually defames all occupants of the Constitutional and Executive Offices.

4.He would also submit that the applicant has approached this Court seeking relief against the defamatory and scandalous statements made against him by the respondent through various online platforms. The allegations made by the respondent are that, firstly a video published on 29.07.2022 runs for 31 minutes & 40 seconds making false allegations that he is running all TASMALC bars in Tamil Nadu and TASMALC shops are running beyond the time scheduled by the Government and the respondent alleges that the sales done after 10 p.m. are



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unaccounted. On a video dated 13.12.2021, the respondent made an allegation that alcohol bottles sold in these shops running beyond the time schedule are charging Rs.5 to 10/- above MRP and the extra amount goes to him.

5.He would further submit that TASMAL tenders are floated by the District Manager of TASMAL at the District level and the Applicant has nothing to do with the tender process. The successful bidders of these tenders are the ones who run the so called TASMAL "bars". The Applicant has no involvement in these tender processes, nor he is running any TASMAL bars. The respondent without proper knowledge and understanding of the structure of the TASMAL had made such defamatory statements.

6.Secondly, a video published on 02.08.2021, the respondent alleges that the Government job appointments were made based on the instructions from the applicant's house. Further in the same video, the respondent states that the



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applicant will “vasool” more money than all other MLA’s and it was stated that the applicant has given 200 Crores for political party's election expenses. A video published in youtube dated 01.05.2022, the respondent makes several false allegations against the applicant, as such he has given appointments to 600 persons in the Transport Corporation whereas the vacancy was only for 300 posts. Further the respondent proceeds to state that the applicant will definitely be arrested by the Enforcement Directorate. Further in a video dated 01.08.2022, the respondent further alleges that when the applicant was serving as a Minister of Transport, Government of Tamil Nadu made appointments by receiving gratification/consideration. The respondent alleged that out of the job scam one Baskar, had consumed poison and had a letter in his pocket which stated that the applicant is the reason for his death and the fabricated letter was tweeted in his twitter handle “@veera284”.



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7. In a video dated 15.07.2022, the respondent made an allegation stating that the applicant had auctioned jobs to the persons who were willing to give the highest bribe. Further in a video dated 13.12.2021, the respondent alleged that the applicant appointed persons to Government posts such as Driver, Conductor, Junior Engineer, Assistant Engineer and Mechanic and the value of this alleged job scam is to the tune of Rs.200 - 300 crores. It was submitted that a C.C.No. 25 of 2021, was filed on the file of Additional Special Court for Trial Cases related to Members of MP's and MLA's wherein the applicant was arrayed as accused-1 and the alleged crime was that the victims were cheated money on the promise to secure jobs of Driver or Conductor in Tamil Nadu State Transport Corporation. The same was quashed by this Court in Crl.OP.No.13374 of 2021 vide order dated 30.07.2021.

8. Thirdly, in a video dated 13.12.2021, the respondent had alleged that for any solar power plants in Tamil Nadu, one can get permission only if they pay a



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sum of Rs.20 lakhs per megawatt to the applicant. It was submitted on behalf of the applicant that in September, 2022 the Electricity Regulatory Commission has published a revised tariff in exercise of its statutory functions and the same took effect from 10.09.2022, so this clearly proves that the applicant has no role in functioning of the TNERC, as in the defamatory articles and all are baseless allegations.

9.Fourthly, in a video dated 01.05.2022, the respondent alleges that the applicant will enter into a deal with rival political parties to break the ruling party. Again on 06.07.2022, the respondent has published a tweet terming the applicant as “Eknath Shinde of Tamil Nadu” as that he is aiming to split the party which the applicant belongs to and bring down the Government of Tamil Nadu. The respondent further claims that the applicant can easily pay Rs.2000 crores for MLA’s. The respondent has also made statements regarding the appointment of the applicant into the Electricity portfolio.



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10. Learned Senior Counsel would further submit that the respondent claims himself to be a journalist and a political analyst. He would submit that to substantiate he is a journalist, he has not produced any documents whatsoever. He would submit that even though there are no regulatory bodies to regulate the working of the journalist such as the Medical Council of India or the Bar Council of India which spells out a definition of journalist. However, the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 defines the word working journalist, wherein the working journalist means a person whose principal avocation is that of a journalist and who is employed as such either whole time or part time. He would submit that the respondent herein has neither employed whole time or part time in any of the establishments of the newspapers. He would submit that the respondent is utilising the social media platforms by making such defamatory & disparaging statements against highly placed persons including this Court which unfortunately had a wider reach.



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11.He would also submit that the respondent is making a living as the social media platform pays to the concerned persons who uploads videos based on the number of views. He would further submit that one of the so called channel viz., Aadhan through which the respondent gives interview in a string operation had clearly admitted that the said Aadhan Television was for a hire and could be used by any persons specifically to target Politicians, Public Officials or Corporates for money. He would further submit that one Madhesh who runs Aadhan Television had earned Rs.1.2 crores during the recent election for targeting a political party. He would submit that modus operandi of the respondent is that he approaches the highly placed persons and threaten them that if they fail to pay the money demanded by him, he would make defamatory & disparaging statements against that person in the social media which he claims to be viewed by lakhs and lakhs of people.



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12. He would further submit that various Youtube uploads & tweets by the respondent are all defamatory per se without any authenticity whatsoever in it. He would submit that the reputation of the applicant is being severely affected by defamatory & disparaging statements made by the respondent. He would further submit that the Hon'ble Apex Court held that reputation of a person is a right under Article 21 of the Constitution of India. He would rebut the claim of the respondent that it is his right to freedom of speech enshrined under Article 19(1) (a) by contending that the right to freedom of speech is subject to restrictions contained in Article 19(2) of the Constitution of India. He would submit that no person can make an allegation which intends to lower the reputation of another without basis & facts or materials or cogent evidence substantiating allegations. He would further submit that the respondent is making unscrupulous defamatory remarks against the applicant with a malicious intention who unjustly enriched himself.



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13.He would also submit that the defendant in his pleadings has not made a single statement as to whether before making alleged defamatory & disparaging allegations, the same had been verified by him. He would further submit that the defence taken by the respondent is that he only make comments on the basis of the newspapers articles or Television news is again without any substance as the allegations made by the respondent do not form part of such newspaper article or Television news.

14.Learned Senior Counsel appearing for the applicant would also further rely upon various judgments in support of his claim:

(i)***Whitehat Education Technology pvt. Ltd vs Aniruddha Malpani,***
reported in ***2020 SCC Online Del 1616***

(ii)***Dr. Mukul M. Sangma Vs P.A. Sangma and Ors.*** reported in ***2014 SCC Online Del 1956***



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(iii) ***Hanuman Beniwal and Ors. Vs Vinay Mishra and others*** reported in
MANU/DE/2170/2022

(iv) ***Lakshmi Murdeshwar Puri Vs. Saket Gokhale*** reported in **2021 SCC
Online Del 3675**

(v) ***Nirmaljit Singh Narula Vs Yashwant Sigh and Ors.*** reported in **2012
(132) DRJ 370**

(vi) ***Sonakka Gopalagowda Shanthaveri And ors. Vs U.R. Anantha
Murthy and Ors.*** reported in **AIR 1988 KAR 255**

(vii) ***Vinai Kumar Saxena Vs Aam Aadmi Party in C.S.(OS)No.593 of 2023***

(viii) ***Order passed by this Court in O.A.No.16 of 2022 in C.S.No.7 of 2022***

(ix) ***Subramanian Swamy Vs Union of India*** reported in **(2016) 7 SCC 221**

(x) ***A.Raja and Anr Vs P. Srinivasan and 3 Others*** reported in **2009 5 LW
117**

(xi) ***Order Passed by this Court in O.A.No.1102 of 2019 in C.S.No. 697 of
2019***



(xii) *Selvi J. Jayalalitha Vs Penguin Books India* reported in 2012 (3)

MWN (Civil) 171

(xiii) *Edapadi K. Palanisami Vs Arappor Iyakkam and Ors.* reported in

MANU/TN/9749/2022

(xiv) *Whatman International Vs. P. Mehta and Ors.* reported in 2019 (78)

PTC 51

(xv) *Justice K.S Puttaswamy (RETD) and another vs Union of India and*

others reported in (2017) 10 SCC 1

15. In view of the above, he would contend that the interim prayers as prayed for be granted or otherwise, the applicant would be put to irreparable loss & undue hardship as it will be very difficult to rebut the reputation that has been built up by the applicant.

16. Countering his arguments, learned counsel appearing on behalf of the respondent would submit that the respondent is a political commentator. He only



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exercises his legitimate right as a citizen to discuss matters that affect the public, that are of public interest and that are in the public domain. He would also submit that the respondent has no personal animosity or a relationship with the applicant. The statements which form the subject matter of this suit is through the public statements, and the applicant who is a Minister needs to be transparent.

17.He would further submit that, as he had worked in the Department of Vigilance and Anti-Corruption. He has a vast network of sources and he cross-checks all information with different persons and where it is necessary then he comments on such matters. The respondent also runs a blog called “Savukku Online” and gives interviews to journalists, and those interviews will be in the form of question and answer format where the respondent is questioned on his views, as he has a long-time understanding of Tamil Nadu politics.



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18. Due to political commentary which the respondent makes he has been targeted by those in power who are uncomfortable with his views, and that had resulted in his arrests, imprisonment and dismissal from his job. This suit is another attempt filed by a person in power holding a public office. The respondent has denied the allegations made against him and he claims that simply winning elections or holding public office is not equivalent to respectable reputation and cannot be assumed that he holds a respectable reputation in the society. It is the applicant who has to prove his good and respectable reputation and public service independently, before alleging that the respondent's political commentating has affected his reputation if any.

19. He would also submit that the respondent is an active user of social media platforms for his work. As he had worked in the Department of Vigilance and Anti-Corruption for more than 18 years it was easy for him to identify



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corruption and its varied methods. All the comments made by the respondent are based on careful study and cross-checking of facts from different sources.

20.He would further submit that the applicant has made a vague statement without giving any particulars and calls the respondent a proxy voice. Political commentating is essential to a democratic process where citizens have a right to be informed about public matters. The accusation that the respondent is running a smear campaign against the applicant from 2021 is false. Further the respondent has been raising concerns and commenting on public matters consistently for many years. The respondent has made observations, comments and criticisms on the applicant's actions as an elected representative of the people and as a Minister responsible for certain portfolios to be handled in public interest.

21.He would also submit that the statements made in videos dated 29.07.2022, 13.12.2021 and 29.07.2022 about TASMAL operations, that it is a



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common knowledge that bottles are being sold above MRP, and that the sales continue even after the scheduled closing time (10 PM) and the sales are unaccounted and that overpricing of Rs.5 or 10 per bottle will result in a large illegal collection per day and he claims that the Minister knows about this. In order to support his view, he has analysed that during Covid, when there was a proposal to sell liquor online, like Delhi Government did, the applicant had ruled out that the Government had any such plans. The conversation is an analysis on how responsibility can be traced to the highest level about overpricing and unaccounted money in TASMAC operations. Hence, he would submit that statements of the respondent are justified, true and are evidenced in the public domain by sting videos and several news reports.

22.The two videos dated 29.07.2022 on Youtube platform named “IBC Tamizh” shows that the conversation which is about the respondent warning the Chief Minister of Tamil Nadu that he is giving space for BJP to grow in Tamil



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Nadu. With a reference to Eknath Shinde episode of Maharashtra, he warns that there is dis-satisfaction among the ranks and cadre of the party because people who have come in from outside are being given importance. It was argued that in January 2022 itself the media had reported the protests by bar owners and workers outside the applicant's house alleging irregularities in the awarding of tenders to run bars attached to TASMAC outlets, and alleged that contracts were being given to select few nominees of the applicant. There were also cases filed challenging the tendering process and this Court has made observations that the process was breeding undesirable and corrupt practices.

23. Further on the same date the video aired to the youtube channel named “ABP Naadu”, the respondent states that the applicant is controlling the bars in a centralized manner and the sales are happening after 10 P.M. and these are unaccounted for. The issues of TASMAC operations are widely reported in the



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media and have also been subject matter of Court proceedings. Hence, argued that statements do not amount to defamation.

24.The videos dated 29.07.2022, 01.08.2022, 01.05.2022, 15.07.2022 & 02.08.2021 highlighting the cash-for-jobs scam case that the applicant is being accused in and the questions raised on the shoddy investigation into the death of one Mr.Bhaskar who was an accused in the case and who was ready to turn approver in the case. In the video dated 01.08.2022 on the youtube channel named “SDC world”, the respondent explains who is Bhaskar and how he came to be an accused in the case relating to the cash-for-jobs scam where money was taken from job aspirants for Driver, Conductor and some other jobs in the Transport Corporation when the applicant was the Transport Minister. He explains how Bhaskar was ready to turn approver in the case. He explains why his alleged 'suicide' was not being properly investigated. As there were many flaws in the investigation.



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25.He would further submit that all the statements made in the cash-for-jobs scam are from case records and are borne out by Orders of the Courts. The respondents statement about the applicant's contribution to the DMK party election fund is based on what he has learnt from the party election strategy team members, and till today a public statement denying this has not been made by the party or the applicant. Further, the statements made in a video dated 13.12.2021 are regarding the solar power plants are justifiable and fair comments based on ground realities experienced by people putting up plants.

26.Further, the video dated 01.05.2022 is a conversation with “Redpix” channel on the topic of power cuts and the statements made against the applicant as Electricity Minister about coal going missing. In the course of that conversation, the respondent analyses that the applicant will shortly enter into a deal with BJP and will break up DMK party and that he aspires to be the Chief Minister. In another video dated 06.07.2022 with Times of India's Tamil samayam.com, that the



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respondent analysed how the applicant was becoming very powerful based on the facts playing out on the political ground, including how the corruption cases against him are not being prosecuted with intensity and requiring Court to interfere for a better investigation. The analysis focuses on how these events will be perceived by the public and is a natural analysis in a political commentary. He would also submit that the applicant or anybody else whether from his party or any other political commentator is free to counter the respondent's analysis. The respondent has no motive to defame the applicant and he is also not running a smear campaign against the applicant.

27.It is also admitted by the respondent that his twitter handle @savukku was blocked in July 2022 based on requests sent by the Tamil Nadu Government, which shows the pressures that the applicant has been putting to silent the respondent.



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28.He would further submit that it is the applicant who must prove his reputation has been tarnished. The respondent speaks against all corruption that he sees and takes note of them irrespective of political party. The case against this respondent is only an attempt to stop and suppress his journalism, political analysis and commentary. The act of the respondent is only to bring transparency among the public and the applicant wishes to keep his secrecy, that is how this suit has been filed. The respondent has every right as enshrined under Article 19(1)(a) and those speeches do not amount to defamation.

29.He would also submit that reasonable restrictions on freedom of speech & expression can only be imposed by a law made on that way. He would submit that there can be no injunction against the citizen from exercising the right to freedom of speech & expression that has been enshrined under Article 19(1)(a). He would further submit that whatever the statements had been made on the basis of the available material either in newspapers, television or social media platforms



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which he analysed based on his experience and knowledge on the subject. Such statements made by the respondent are all criticism of the action of the applicant which cannot be scuttled or sought to be shut on the ground that they are defamatory. He would submit that every individual has a right to fair criticism of the action of the other.

30. He would further submit that none of the statements made by the respondent intrude into the right of privacy as claimed by the applicant and therefore, he would submit that the applicant is not entitled for grant of injunction as prayed for. He would submit that the suit is nothing but a slap suit i.e. (a Strategic Litigation Against Public Participation). He would submit that he had also submitted detailed remarks on the various judgments that had been relied upon by the applicant. He would further rely upon various judgments in support of his claim:



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(i) *State of Assam vs Barak Upatyaka D.U Karmachari Sanstha* reported in (2009) 5 SCC 694.

(ii) *A.Guruprasad vs T.Neelakandan* reported in 1955 SCC OnLine Mad 599.

(iii) *Empire Industried Limited and others vs Union of India and Others* reported in (1985) 3 SCC 314.

(iv) *Kartar Singh and Ors. V. State of Punjab* reported in AIR 1956 SC 541.

(v) *R.Rajagopal and Another V. State of Tamil Nadu and others* reported in (1994) 6 SCC 632.

(vi) *R.Rajagopal and another V. J.Jayalalitha and Anr.* reported in (2006) 2 LW 377.

(vii) *Tata Sons Ltd. V. Greenpeace International and Anr.* reported in (2011) 178 DLT 705.

(viii) *Menaka and Co. V. ArapporIyakkam and Anr.* reported in SCC OnLine Mad 39165

(ix) *Food Corporation of India V. SukhDeo Prasad* reported in (2009) 5 SCC 665



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(x)*Kaushal Kishore v. State of UP and Ors.*, reported in *2023 SCC online*

(xi)*Shreya Singhal V. Union of India* reported in *(2015) 5 SCC 1*.

(xii)*S. Rangarajan V. P. Jagjivan and Ors.* reported in *(1989) 2 SCC 574*.

(xiii)*Derbyshire County Council V. Times Newspapers Ltd. and Ors.*
reported in *(1993) 1 All ER 1011*.

(xiv)*New York Times Co. V. Sullivan*, *376 U.S 254* *376 U.S 254*

(xv)*Whitney. California*, *274 U.S 357*

31.He had particularly placed heavy reliance upon the judgment in R.Rajagopal's case and submitted that when statements are being made against a person, particularly a public servant of his public life, there can be no injunction granted against it. Even in respect of private life, the Courts have held that before granting any such statements, the person concerned should be put on notice and given a reasonable time for them to make a reply. If no reply is received, then it is



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open to him to make such statements. If a reply is received even then such statements could be made, but, however, a reply is received by them and should also be made available for the public to make their opinion. He would submit that it is a fair criticism based on the analysis of the subject made by the respondent being a responsible citizen under a freelance journalist and a political analyst. The respondent has every right to make such statements for the general public to come to a conclusion on their own understanding of the subject.

32.I have considered the rival submission made by the learned counsel appearing on either side and perused the materials available on record.

33.The following are the statements that have been made by the respondent against the applicant:

Dates	Tweets
22.12.2022	the respondent had tweeted that the kidnapping of a



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	counselor at karur was done by the applicant's brother
29.12.2022	the respondent had called the applicant a sleeper cell of the BJP
12.01.2023	the respondent retweeted a tweet of another account titled "voice of Savukku Sankar" in which a poll was conducted about who is making the most collection for Pongal and has shown the name of the applicant in the said poll.
22.01.2023	the respondent has called the applicant as the "family's cash cow" referring to the family of the Hon'ble Chief Minister of Tamil Nadu.
05.02.2023	the respondent has referred to the applicant as five party amavasai (அஞ்சுகட்சி அம்மாவாசை)
17.02.2023	the respondent has once again shared news about "Thiru Eknath Shinde" and tagged the applicant and has made an imputation that the victory of Thiru. Eknath Shinde is the victory of the applicant
18.02.2023	the respondent has stated that the applicant has a "Chief Minister dream" and he has taken control of the entire administration of the State and is



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	indulging in indiscriminate collection of money. the respondent has linked a third party who he calls a "rowdy" as backed by the applicant
03.03.2023	the respondent tweets a link to his interview with one Madhesh, who runs a you tube news channel called Adam Tamil with a hashtag #VSB4CM therefore it can be seen that the respondent has willfully, wantonly and brazenly violated the order of interim injunction granted by this Hon'ble Court
07.03.2023	the respondent has claimed that the allegation of the Hon'ble Chief Minister of Tamil Nadu that there is a plan to topple the DMK Government refers to the applicant.
07.03.2023	again the respondent makes an imputation that the applicant is attempting to topple the Government of Tamil Nadu
08.03.2023	the respondent has tweeted a photo of the brother of the applicant stating that when the applicant becomes the Chief Minister his brother will become the Deputy Chief Minister
08.03.2023	the respondent has tweeted about a routine



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	administrative transfer of an employee and baselessly claimed that the said employee was transferred to about 150 Kms away because he refuse to collect money on behalf of the applicant and "Karur Gang"
09.03.2023	the respondent has again taken a photograph of the applicant's brother imputing that he will become the deputy Chief Minister in the future.
11.03.2023	the respondent again tweeted a link to his interview in a Youtube channel and made an allegation that the applicant tried to buy him and later slapped a suit for Rs.2 crores and that the entire intelligence department in the State is in his pay roll.

34.The tabular column containing links of Youtube & Twitter made by the respondent for uploading the listed contents supra:

S.No.	Date of Publication	Video Link
1	02.08.2021	https://www.youtube.com/watch?v=jlEcU61bO0
2	13.12.2021	https://www.youtube.com/watch?v=60CpA3128P8



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S.No.	Date of Publication	Video Link
3	01.05.2022	https://www.youtube.com/watch?v=0JcqSHb-ZY
4	06.07.2022	https://www.youtube.com/watch?v=Sbp4i412ReQ
5	06.07.2022	https://mobile.twitter.com/Veera284/status/1544721906917867521
6	13.07.2022	https://twitter.com/veera284/status/15471391557378703362s-21&t-UQuda-yTzMDFrINbiXCD3A
7	15.07.2022	https://www.youtube.com/watch?v=NnXHFY-Duel
8	29.07.2022	https://www.youtube.com/watch?v=bRevsOinglQ
9	29.07.2022	https://www.youtube.com/watch?v=imv530YKSHc
10	01.08.2022	https://www.youtube.com/watch?v=KjIKzcTVEAE

35.Learned counsel appearing on either side had taken enormous efforts in substantiating their claim as to whether the statements made by the respondent are defamatory or not. At the outset, I am of the view that at the present stage, the veracity of such allegations need not be gone into. The same has to be canvassed by the parties during the course of trial and finding a fact as to whether such statements are defamatory or not could only be arrived during the conclusion of the



trial. It is pertinent to note that there is no prayer seeking to declare the statements made by the respondent are per se defamatory.

36.The applications herein are seeking for an injunction restraining the respondent from in any way making any statements which would tend to lower the reputation of the applicant on Youtube, Twitter and Facebook or in any other media and also for an interim direction directing the respondent to remove all the videos and tweets mentioned in the schedule.

37.On analysis of the judgments relied upon by Mr.P.Wilson, learned Senior Counsel appearing for the applicant, I do not propose to consider the following judgments for the reasons that those are interim orders passed pending an interim application:

(a) ***Whitehat Education Technology Pvt. Ltd. vs. Aniruddha Malpani***
reported in ***2020 SCC OnLine Del 1616***



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(b)*Dr.Mukul M.Sangma vs. P.A.Sangama & Ors.* reported in *2014 SCC OnLine Del 1956*

(c)*Hanuman Beniwal & Ors. vs. Vinay Mishra & Ors.* reported in *MANU/DE/2170/2022*

(d)*Lakshmi Murdeshwar Puri vs.Saket Gokhale* reported in *2021 SCC OnLine Del 3675*

(e)*Vinai Kumar Saxena vs. Aam Aadmi Party and Others* reported in *2022 SCC OnLine Del 3093*

38.As regards to the reliance placed on the judgment of the Delhi High Court reported in *2021 SCC OnLine Del 3675*, the learned Judge had recorded a finding that the respondents therein had pleaded that there was no necessity to make any due diligence or even conduct a preliminary enquiry into the facts before making such a statement. In this case, there is a specific pleadings by the



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respondent that he had made enquiries through his sources before giving his opinion. On that ground alone, I do not propose to consider the aforesaid judgment.

39.As regards to the judgment relied upon by the learned Senior Counsel reported in **2012 (132) DRJ 370**, it is to be seen that restraint order that was passed as a conditional order. The defendants were restrained from licensing, writing, publishing, hosting or advertising any defamatory material against the plaintiff on their website or through any other print/electronic media to defame the reputation of the plaintiff subject to the condition that the plaintiff also restrains himself in future from giving any kind of absurd or illogical solutions to his disciples and others, and, confines his discourses to all such kind of teachings through which the life of common man can improve and improve in the right direction. Further a reading of the aforesaid judgment, it could be seen that the learned Judge had dealt with the issue of public debates, he had given a finding that reckless allegations are being made by way of a campaign. It has also observed that it takes years and



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decades to build the reputation or goodwill to be a political, public figure & bureaucrats etc and that, if any irresponsible statements are made by the media or anyone which causes reputation to be damaged, such action should not be loss of sight. At this juncture, it is pertinent to note that the Hon'ble Apex Court in R.Rajagopal's case reported in **(1994) 6 SCC 632** had held that only the private life of an individual should not be published which would bring disrepute to the individual. A rider had also been made by the Hon'ble Apex Court permitting publication of even a personal life if it is already in public domain.

40.Further a Division Bench of this Court in R.Rajagopal case reported in **(2006) 2 LW 377**, following judgment of the Hon'ble Apex Court reported in **AIR 1956 SC 541** had held that a person in public life should not be thin skinned and they are always open to criticism. In view of the aforesaid pronouncements of the Hon'ble Apex Court and the Division Bench judgment of this Court, I also do not propose to consider the aforesaid judgments.



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41. Further a judgment reported in *AIR 1988 KAR 255* relied upon by the learned Senior Counsel, is a well established principle of grant of mandatory injunction which cannot be disputed by anyone.

42. As regards to the judgment relied upon by the learned Senior Counsel, passed by this Court in *O.A.No.1102 of 2019 in C.S.No.697 of 2019 dated 12.12.2019*, it is seen that even though various discussions have been made, the applications were disposed of recording an undertaking of the respondent therein, wherein they have agreed to provide a disclaimer that it is a work of fiction. In such a view of the matter, I do not propose to consider the aforesaid judgments.

43. Further judgment relied upon by the learned Senior Counsel, reported in *2009 5 LW 117*, the prayer in the same was only not to make a publication of the private life of the applicant therein. Only in such circumstances, the Court had considered various contentions raised by the parties. The Division Bench of this



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Court in the aforesaid judgment had specifically held that if criticisms are attempted to be avoided, it would amount to political censorship. The acts done by a person in public life could be categorized as private and public. The acts and conduct of a person who holds office in Government and responsible for public administration are always open to criticism, when a publication is made in the press commenting or criticising the acts and conduct of a person which is connected to his public office and life. For better appreciation, the relevant paragraph is extracted hereunder:

...it cannot be made a condition that a prior verification of the facts should be done. But it would suffice if the media or the press has acted after a reasonable verification. But, at the same time, it should not be forgotten that the Apex Court in the case reported in (1994) 6 SCC 632 had made it clear that every citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child-bearing and education among other matters and no one can publish anything in reference to the above matters without his or her consent whether laudatory or critical.



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44. In such an event, I am of the opinion that the aforesaid judgment would also not be of any help to the applicant.

45. As regards to the judgment relied upon by the learned Counsel, reported in **2012 (3) MWN Civil 171**, it is to be noted that here again it was a case where the Court had only restrained publication of a private life of an individual. Here again, the learned Judge had relied upon a judgment of the Hon'ble Apex Court in **R. Rajagopal's** case to come to such a conclusion.

46. Further judgment relied upon by the learned Senior Counsel, reported in **MANU/TN/9749/2022**, this Court had granted injunction considering the fact that a making a criminal complaint against the Minister with false and baseless allegations, that too while as per Business Rules, there is no role to play by the Minister for implementation of policy or deficiencies in tender process, etc., and uploading the complaint in social media, in opinion of this Court, would prima



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facie tarnish personal and professional reputation of applicant in society. Hence, the aforesaid judgment would also cannot be said to be supporting the claim of the applicant herein.

47.As regards to the judgment of the Hon'ble Apex Court relied upon by the learned Senior Counsel, reported in **(2016) 7 SCC 221**, a perusal of the aforesaid judgment would show that the challenge therein was to Sections 499 and 500 of I.P.C. In that context, the Hon'ble Apex Court had laid down that the freedom of speech available under Article 19(1)(a) cannot be invoked so as to denigrate the reputation of an individual as such reputation is traceable to Article 21 of the Constitution. The said judgment had in detail dealt with various aspects in coming to such a conclusion. But, however, the Hon'ble Apex Court in the aforesaid judgment had not dealt with the issue of grant of an interim order in a case of defamation. As pointed out earlier, the issue is already covered by the Hon'ble Apex Court judgment in R.Rajagopal's case reported in **(1994) 6 SCC 632** and



Division Bench judgment of this Court again in R.Rajagopal's case reported in *(2006) 2 LW 377*.

48.A Further reliance of right to privacy could also not be denied as decided in the judgment reported in *(2017) 10 SCC 1*.

49.I do not propose to dwell upon various submissions made by the learned counsel appearing for the respondent as I have already held that in view of the judgment of the Hon'ble Apex Court in *(1994) 6 SCC 632* and Division Bench judgment of this Court in R.Rajagopal's case in *(2006) 2 LW 377*, only statements of a person dealing with his or her private life would be subject to scrutiny in a pretrial stage. The Hon'ble Apex Court in Kartar Singh's case had specifically held as follows:



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These slogans were certainly defamatory of the Transport Minister and the Chief Minister of the Punjab Government but the redress of that grievance was personal to these individuals and the State authorities could not take the cudgels on their behalf by having recourse to Section 9 of the Act unless and until the defamation of these individuals was prejudicial to the security of the State or the maintenance of public order. So far as these individuals were concerned, they did not take any notice of these vulgar abuses and appeared to have considered the whole thing as beneath their notice. Their conduct in this behalf was consistent with the best traditions of democracy. "Those who fill a public position must not be too thin skinned in reference to comments made upon them. It would often happen that observations would be made upon public men which they know from the bottom of their hearts were undeserved and unjust; yet they must bear with them and submit to be misunderstood for a time" (Per Cock-burn, C.J. in Seymour v. Battenworth [(1862) 3 F & F 372, 376, 377 : 176 ER 166, 168, 169] and see the dicta of the Judges in R. v. Sir R. Carden [(1879) 5 QBD 1] . "Whoever fills a public position renders himself open thereto. He must accept an attack as a necessary, though unpleasant, appendage to his office" (Per Bramwell, B., in Kelly v. Sherlock [(1866) LR 1 QB 686, 689] . Public men in such positions may as well think it worth their while to ignore such vulgar criticisms and abuses hurled against them rather than



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give importance to the same by prosecuting the persons responsible for the same.

50. It is true that the right to freedom of speech as enshrined in Article 19(1)(a) cannot be usurped to damage the reputation of an individual. Reputation of an individual had been traced to Article 21 of the Constitution of India. The Hon'ble Apex Court in the judgment reported in **2016 (17) SCC 221** had dealt with balancing of the rights available under Article 19(1)(a) and Article 21. But, however, considering the fact that the applicant herein admittedly is a public person. The Youtube videos & tweets tabulated supra only make various allegations as against the applicant in performance of his official duties. Further most of the statements are already available in public domain. In view of the judgment rendered by the Hon'ble Apex Court in **(1994) 6 SCC 632** which has been also followed by a Division Bench of this Court in R.Rajagopal's case



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in (2006) 2 LW 377. I am of the considered view that there cannot be any injunction as prayed for against the respondent.

51.As regards to the application for direction of removal tweets, it is an admitted case that tweets and Youtube videos have been uploaded by the respondent and had been viewed by the public at large, which only would presuppose that the damage had already taken place. In such circumstances, I would be fortified to rely upon a Division Bench judgment in the case of Khushwant Singh and Another vs. Maneka Gandhi reported in *AIR 2002 Del 58* wherein Hon'ble Mr.Justice S.K.Kaul authoring the judgment had held as follows:

The appellant has been prevented from writing and publishing his thoughts, views, personal interactions and his perspective of life in his proposed autobiography for almost six years at this late stage of his life. In our considered view this cannot be countenanced. The balance of convenience lies in non grant of injunction. Sufficient damage has already been caused. The injunction must be vacated forthwith. The three cardinal principles of balance of convenience, prima facie case and irreparable loss



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and injury are not satisfied in the facts of the present case. The balance of convenience is in favour of applicant rather than gag order. As discussed above well established principles weigh in favour of the right of publication and there is no question of any irreparable loss or injury since respondent herself has also claimed damages which will be the remedy in case she is able to establish defamation and the appellant is unable to defend the same as per well established principles of law.

52. An analysis of the above judgment it could be seen that Division Bench had vacated the order of injunction already granted on the ground that sufficient damage had already been caused & there would be no purpose in directing the respondent to delete the videos & tweets uploaded on Youtube and Twitter against the applicant.

53. Further the direction also involved removal of videos uploaded in Youtube and twitter, which are made in the third party websites. The respective



aggregations of the platforms such as Youtube, Twitter and Facebook also not been made as parties.

54.In the light of the aforesaid findings & reasoning, O.A.No.509 of 2022 and A.No.3494 of 2022 are rejected & the interim order dated 23.08.2022 is vacated.

16.06.2023

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K.KUMARESH BABU, J.

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Pre-delivery common order in

O.A.No.509 of 2022

& A.No.3494 of 2022

in C.S.No.172 of 2022

16.06.2023

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